IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1688 of 1984

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT
and
Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MINOR MINABEN BY HER FATHER MANGALBHAI PRABHATBHAI PARMAR
Versus
RAMANBHAI BADHARBHAI VASAVA

Appearance:
1. First Appeal No. 1688 of 1984
MR MTM HAKIM for Petitioner No. 1
SERVED BY AFFIX.(N) for Respondent No. 1
NOTICE SERVED for Respondent No. 2
MR BH BHAGAT for Respondent No. 3
MR SUNIL B PARIKH for Respondent No. 3

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT
and
MR.JUSTICE A.L.DAVE

Date of decision: 26/06/2003

ORAL JUDGEMENT

(Per : ACTING CHIEF JUSTICE MR.JN BHATT)

The only question which requires to be examined and adjudicated in this appeal is as to whether quantification of compensation by the Motor Accident Claims Tribunal in a case of a permanent partial disablement and amputation of left leg above knee of a six years old child, is sufficient or not, to which our answer, after hearing the learned Advocate appearing for the parties and considering the facts and circumstances and the relevant proposition of law, is in the negative and we are of the view that it requires to be enhanced appropriately.

2. The Tribunal has awarded in all Rs. 63,000/- under all the heads in such a serious case, against the claim of Rs. 1,20,000/-. Thus, the Tribunal has not awarded the full amount, meaning thereby that there is no award for an amount of Rs. 57,000/-. However, in our opinion the assessment of damages made by the Tribunal in the light of the facts, the age of the victim, the nature of permanent partial disablement coupled with the amputation, is on a lower side and an additional amount of Rs. 18,000/- would meet the ends of justice and the total amount of compensation should be paid along with interest at the rate of 9 per cent per annum from the date of application, till the date of realisation, instead of 6% awarded by the Tribunal. We therefore find that the Tribunal has committed serious error and therefore it is required to be corrected in exercise of our appellate power.

3. The impugned judgement and award shall stand modified. The claimant will be entitled to, in all an amount of Rs. 81,000/- along with interest at the rate of 9% from the date of application, till payment, instead of amount of Rs. 63,000/- with interest at the rate of 6% per annum awarded by the Tribunal. The award shall stand modified to the aforesaid extent. The appeal shall stand partly allowed with costs.

(J.N.Bhatt, Acting C.J.) (A.L.Dave, J.)

*/Mohandas